

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re:

MOUNTAIN EXPRESS OIL COMPANY, *et al.*,

Debtors.¹

Chapter 11

Case No. 23-90147 (DRJ)

(Jointly Administered)

**AD HOC C-STORE OPERATOR'S EMERGENCY MOTION FOR EXTENSION OF
TIME TO FILE CURE/ASSIGNMENT OBJECTIONS**

[Relates to Doc. No. 728]

TO THE HON. DAVID R. JONES.

UNITED STATES BANKRUPTCY JUDGE:

THIS MOTION SEEKS AN ORDER THAT MAY ADVERSELY AFFECT YOU. IF YOU OPPOSE THE MOTION, YOU SHOULD IMMEDIATELY CONTACT THE MOVING PARTY TO RESOLVE THE DISPUTE. IF YOU AND THE MOVING PARTY CANNOT AGREE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTY. YOU MUST FILE AND SERVE YOUR RESPONSE WITHIN 21 DAYS OF THE DATE THIS WAS SERVED ON YOU. YOUR RESPONSE MUST STATE WHY THE MOTION SHOULD NOT BE GRANTED. IF YOU DO NOT FILE A TIMELY RESPONSE, THE RELIEF MAY BE GRANTED WITHOUT FURTHER NOTICE TO YOU. IF YOU OPPOSE THE MOTION AND HAVE NOT REACHED AN AGREEMENT, YOU MUST ATTEND THE HEARING. UNLESS THE PARTIES AGREE OTHERWISE, THE COURT MAY CONSIDER EVIDENCE AT THE HEARING AND MAY DECIDE THE MOTION AT THE HEARING.

REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEY.

EMERGENCY RELIEF HAS BEEN REQUESTED. IF THE COURT CONSIDERS THE MOTION ON AN EMERGENCY BASIS, THEN YOU WILL HAVE LESS THAN 21 DAYS TO ANSWER. IF YOU OBJECT TO THE REQUESTED RELIEF OR IF YOU BELIEVE THAT THE EMERGENCY CONSIDERATIONN IS NOT WARRANTED, YOU SHOULD FILE AN IMMEDIATE RESPONSE.

¹ A complete list of each of the Debtors in these Chapter 11 cases may be obtained on the website of the Debtors' claims and noticing agent at www.kccllc.net/mountainexpressoil. The location of Debtor Mountain Express Oil Company's principal place of business and the Debtors' service address in these Chapter 11 cases is 3650 Mansell Road, Suite 250, Alpharetta, GA 30022.

On behalf of a group of approx. 65 convenience stores (the “C-Stores”) with pre-petition relationships with the debtors (collectively, the “Ad Hoc C-Store Operators”),² undersigned counsel files this *Emergency Motion for Extension of Time to File Cure/Assignment Objections* (“Emergency Motion”), and respectfully submits the following.

EMERGENCY MOTION

1. Undersigned counsel was contacted last Wednesday, July 12, 2023 to represent them in the above-referenced bankruptcy case (the “Case”). The C-Stores and Ad Hoc C-Store Operators are listed in the Debtors’ *Notice to Counterparties to Potentially Assumed Executory Contracts and Unexpired Leases* (the “Notice”) [Doc. No. 728], which listed a Cure/Assignment Objection Deadline (as defined therein) of **July 12, 2023 at 4:00 pm CT** (“Initial Deadline”).

2. In light of the imminent deadline, undersigned counsel immediately contacted Debtors’ counsel, asking for an extension to the cure objection for these individual C-Store Operators. Debtors’ counsel graciously granted a one-week extension, thereby moving the Cure/Assignment Objection Deadline for the Ad Hoc C-Store Operators through and including **July 19, 2023** (“First Agreed Extension”)

3. Over the past week, undersigned counsel has worked diligently and around the clock to gather the information necessary to file any necessary cure/assignment objection for the C-Store Operators. Counsel is still in the process of collecting information, and is receiving information on a piecemeal basis from the C-Store Operators.

4. As of this morning, counsel estimates that it has received information for approximately 20 C-Stores, but notably did not receive those initial documents until late yesterday.

² A list of the Ad Hoc C-Store Operators is listed in Appendix A, attached hereto. To be clear, there are approximately 38 C-Store Operators with approximately 65 leases. Kean Miller intends to file a Verified Rule 2019 Statement asap.

There is still a tremendous amount of work to do, and follow-up with each of the C-Store Operators.

5. This morning, Counsel provided an update to Debtors' counsel and requested an additional 1-week extension from the Debtors' counsel. Debtors' counsel has agreed to extend the Cure/Assignment to **Friday, July 21, 2023 at 5:00 pm CT** ("Current Agreed Extension").

6. While this additional extension is helpful and appreciated, the Ad Hoc C-Store Operators are requesting an additional 6 days (i.e., through and including **Thursday, July 27, 2023**) to file Cure/Assignment Objection(s). The Ad Hoc C-Store Operators are requesting this brief extension out of an abundance of caution, and in light of the sheer volume of documents that need to be reviewed.

7. Section 105(a) of the Bankruptcy Code permits a court to "issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of [the Bankruptcy Code]." 11 U.S.C. § 105(a). An extension is appropriate here. There are approx. 65 leases at issue, and the C-Store Operators (who are largely unfamiliar with bankruptcy process and just recently retained counsel) need additional time. Counsel is still trying to obtain necessary information from these C-Store Operators, but a lot of work is remaining.

8. An additional 6-day extension should not prejudice the Debtors in this process, especially since: (i) Adequate Assurance Objections (as defined in the same Notice at issue) are not due until August 3, 2023; and (ii) any objection by the Ad Hoc C-Store Operators would still be filed before the scheduled auction on July 28th.

9. This motion is filed on an emergency basis because the Current Extended Deadline (as agreed to by the Debtors) is Friday, July 21, 2023 at 5:00 pm CT -- and the C-Store Operators require additional time to gather the information necessary to file a Cure/Assignment Objection.

10. With the additional time, C-Store Operators are also hopeful to resolve their Cure/Assignment Objection with Debtors without court intervention.

11. Accordingly, the C-Store Operators respectfully request a 6-day extension (i.e., through and including **Thursday, July 27, 2023**) to file a Cure/Assignment Objection, as may be necessary.

Dated: July 17, 2023

Respectfully submitted,

By: /s/ Rachel T. Kubanda
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ATTORNEYS FOR AD HOC C-STORE
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that, on July 19, 2023, a copy of the foregoing document served to all parties entitled to receive notices through the Court's electronic notification system as permitted by Local Rules of the U.S. Bankruptcy Court for the Southern District of Texas:

/s/ Rachel T. Kubanda
Rachel T. Kubanda

CERTIFICATE OF CONFERENCE

The undersigned verifies that on July 19, 2023, we contacted Debtors' counsel about a one-week extension, and Debtors' counsel agreed to extend the deadline to Friday, July 21, 2023 at 5:00 pm CT.

/s/ Rachel T. Kubanda
Rachel T. Kubanda